

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ESTATE OF ROGER D. OWENSBY,	:	
JR.,	:	NO. 1:01-CV-00769
	:	
Plaintiff,	:	
	:	ORDER
	:	
v.	:	
	:	
	:	
CITY OF CINCINNATI, <u>et al.</u> ,	:	
	:	
Defendants.	:	

On May 17, 2004, Defendants Patrick Caton, Robert Blaine Jorg, Jason Hodge, Darren Sellers, and Victor Spellin (hereinafter "Defendants") moved for leave to conduct the supplemental deposition of Dr. Cyril Wecht (doc. 152). On May 20, 2004, the Plaintiff responded, opposing the motion and demanding it be stricken from the record (doc. 159). No reply thereto was filed. On June 7, 2004, the assigned Magistrate Judge properly reviewed the matter and issued an Order (doc. 183) denying the Defendants' motion to conduct the supplemental deposition. On June 15, 2004, the Defendants filed objections thereto (doc. 188). In light of the prior proceedings in this case, further briefing on the objections is unnecessary.

As the Defendants properly note in their objections, this Court, during a status conference held just prior to the Magistrate Judge's ruling at which the parties discussed at substantial length a number of interrelated evidentiary issues, granted the Defendants

leave to conduct the requested deposition. The discoverability and admissibility of Dr. Wecht's testimony and deposition have been hotly contested by the parties (docs. 68, 96), and his deposition was not conducted until well after the established discovery deadline. It was apparent to the Court - based upon the extended discussion occurring during the status conference - that granting leave was proper in light of the facts of this case; the Magistrate Judge was simply not privy to this information in issuing his thoughtful ruling. The Court appreciates the Magistrate Judge's conscientious effort to address this issue in light of the then-impending trial date, and it regrets failing to notify the Magistrate Judge of this determination so as to remove it from his review.

Accordingly, Defendants' Caton, Hodge, Jorg, Sellers, and Spellen's Rule 72(a) Written Objection To Order Denying Defendants' Motion To Take Supplemental Deposition of Dr. Wecht (doc. 188) is SUSTAINED. The Magistrate Judge's Order Denying Motion To Take Supplemental Deposition Of Dr. Wecht (doc. 183) is OVERRULED. The Defendants' Caton, Hodge, Jorg, Sellers and Spellen's Motion To Take Supplemental Deposition of Dr. Wecht (doc. 152) is hereby GRANTED.

SO ORDERED.

Dated: June 16, 2004

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge